Los Angeles County Sheriff's Department

Officer Involved Shooting

Report Date: 12-19-08	Bureau/Station/Facility: Palmdale Station	Admin. Invest.? ☐	Hit? ☐

Incident Information

URN: 008-23769-2610-032	Date: 12-19-08 Time: 2309 hours
City or Station: Palmdale Station	Nature of Incident: Susp robbed a 711 Store by simulating a gun and was detained by deputies a few blocks away. Susp ran from deputies and slipped and fell twice on the icy ground. As he was trying to get up from the second fall, he reached for his waistband as if he was going for a weapon. Deputy Paez fearing for his safety, fired one round from his duty weapon, missing Susp. Susp was taken into custody. No firearm was found. The discharge round was located in a bed of decorative rocks near the suspect.
Location: ███ 17th Street, Building #C, Palmdale	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, (**Residence**), Rural, School, (**Street**)
Other: side of the residence

Lighting (*circle only one*): (**Darkness**), Daylight, Other, (**Street Lights**)

Weather (*circle only one*): (**Clear**), Cloudy, Fog, Rain

Distance: 10'

Incident Type (*circle one or more*): Accidental, Armed Person, (**Fleeing Suspect**), (**Foot Pursuit**), Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot
Other: susp reaching for his waistband

Initiated by (*circle only one*): Arrest Warrant, (**Call**), Observation, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, (**Routine Patrol**)

Aero Unit? ☐ Canine Unit? ☒

Total # of Shots Fired by Deputy: 1

Total # of Shots Fired by Suspect: None

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
███	███	███		EM (**PM**) Day	(**Regular**) Overtime Off Duty
███	Wolanski	Daniel		EM (**PM**) Day	Regular (**Overtime**) Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name		First Name		M.I.
Street Address	**City**	**Zip Code**	**Work Ph**	**Home Ph**
Last Name		First Name		M.I.
Street Address	City	Zip Code	Work Ph	Home Ph
Last Name		First Name		M.I.
Street Address	City	Zip Code	Work Ph	Home Ph

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*)
███	Dollens	Allan		(**On Duty**) Present during shooting Witness to shooting Involved in shooting
███	Zarris	Paul		(**On Duty**) Present during shooting Witness to shooting Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
███	Wright	Mark	

Watch Commander

Employee #	Last Name	First Name	M.I.
███	Carter	Quitman	

PSTD Use Only

SH # ____________

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
12-20-08	0215	02-06-09	

Employee #	Last Name	First Name	M.I
[redacted]	Tong	Owen	
[redacted]	Hill	Scott	
[redacted]	Brickert	Scott	

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious

(RM) Refused Med Treatment

(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E #1	S #1	FH	BR	9	Y	Y	NN	

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 008-23769-2610-032

Involved Employee

E 1

- Employee #:
- Last Name: Paez
- First Name: Anthony
- M.I.:
- Sex: M
- Race: H
- Rank: Deputy
- Unit Assignment: Palmdale Station
- Work Assignment (Unit #, Module, etc.): #266J
- ShiftTime (*circle only one*): EM **(PM)** Day
- ShiftType (*circle only one*): **(Regular)** Overtime Off Duty
- Intoxication/Drug Usage? ☐
- Substance Used:
- Hospital Admission? ☐
- Hospital Name:
- Coroner Case? ☐
- Coroner Case #:
- Interviewed? ☒
- Hrs of sleep prior to shooting: 8
- Duty Time (hrs):
- Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / **(Uniform w/ Vest)**
- Other Factors:
- Age:
- Height: 504
- Weight: 140
- Range Qualification Date:
- PPC Qualification Date:
- Laser Training Date:
- Certified with Weapon Used? ☒
- Patrol Certification? ☐
- Certification Unit:
- Prior Shootings? ☐
- Number of Prior Shootings: 0
- Directed Force: ☐
- Weapons Fired Brand: Beretta — Caliber: 9mm — # Shots: 1
- Weapons Fired Brand: — Caliber: — # Shots:
- Field Training Officer Emp #: Last Name: First Name: M.I.:
- Field Training Officer Emp #: Last Name: First Name: M.I.:

E___

- Employee #: Last Name: First Name: M.I.:
- Sex: Race: Rank: Unit Assignment: Work Assignment (Unit #, Module, etc.):
- ShiftTime (*circle only one*): EM PM Day
- ShiftType (*circle only one*): Regular Overtime Off Duty
- Intoxication/Drug Usage? ☐
- Substance Used:
- Hospital Admission? ☐
- Hospital Name:
- Coroner Case? ☐
- Coroner Case #:
- Interviewed? ☐
- Hrs of sleep prior to shooting:
- Duty Time (hrs):
- Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest
- Other Factors:
- Age: Height: Weight:
- Range Qualification Date: PPC Qualification Date: Laser Training Date:
- Certified with Weapon Used? ☐
- Patrol Certification? ☐
- Certification Unit:
- Prior Shootings? ☐
- Number of Prior Shootings:
- Directed Force: ☐
- Weapons Fired Brand: Caliber: # Shots:
- Weapons Fired Brand: Caliber: # Shots:
- Field Training Officer Emp #: Last Name: First Name: M.I.:
- Field Training Officer Emp #: Last Name: First Name: M.I.:

E___

- Employee #: Last Name: First Name: M.I.:
- Sex: Race: Rank: Unit Assignment: Work Assignment (Unit #, Module, etc.):
- ShiftTime (*circle only one*): EM PM Day
- ShiftType (*circle only one*): Regular Overtime Off Duty
- Intoxication/Drug Usage? ☐
- Substance Used:
- Hospital Admission? ☐
- Hospital Name:
- Coroner Case? ☐
- Coroner Case #:
- Interviewed? ☐
- Hrs of sleep prior to shooting:
- Duty Time (hrs):
- Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest
- Other Factors:
- Age: Height: Weight:
- Range Qualification Date: PPC Qualification Date: Laser Training Date:
- Certified with Weapon Used? ☐
- Patrol Certification? ☐
- Certification Unit:
- Prior Shootings? ☐
- Number of Prior Shootings:
- Directed Force: ☐
- Weapons Fired Brand: Caliber: # Shots:
- Weapons Fired Brand: Caliber: # Shots:
- Field Training Officer Emp #: Last Name: First Name: M.I.:
- Field Training Officer Emp #: Last Name: First Name: M.I.:

Officer Involved Shooting Suspect Information

Suspect Information

S 1

Last Name: Bivins	First Name: DeAnthony	M.I.: M.
AKA Last Name:	First Name:	M.I.:

Sex: M Race: B	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: None	Home Phone: [redacted]	Social Security #:	Driver's License #: [redacted]
Age: 19 D.O.B. 10-21-89	Height: 507 Weight: 150	FBI #:	CII #:
Booking #: 1736 345	Primary Charge: Robbery, Weapon 211PC		Secondary Charge: Obstruct, Resist, Delay a Peace Officer 148(a)(1)PC
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☒	Mental Illness? ☐	Criminal History? ☒
Vehicle Make:		Model:	Year:

S__

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:

Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:		Secondary Charge:
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S__

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:

Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:		Secondary Charge:
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S__

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:

Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:		Secondary Charge:
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

See Other Side

INTERNAL AFFAIRS BUREAU
INQUIRY SUMMARY

Use of Force - Non-hit Shooting at Palmdale Station

CASE NUMBER: IAB #SH2235183
INVOLVED EMPLOYEE: Anthony Paez [redacted]

INVESTIGATOR: Owen Tong, Sergeant [redacted]

DATE/DAY/TIME: December 19, 2008 / Friday / 2308 hours
LOCATION: [redacted] 17th Street East, Building #C22, Palmdale, CA

Summary:

On December 19, 2008, Palmdale deputies responded to a 211PC just occurred at a 7-Eleven market on 1868 E. Palmdale Avenue, Palmdale. As Unit #266A ([redacted] and [redacted] Deputy Anthony Paez) searched northbound on 17th Street East for the suspect, they saw Suspect DeAnthony Bivins walking southbound on the east side of 17th Street East from Avenue Q-13, and noted that he matched the description of the robbery suspect.

The deputies stopped their patrol SUV in front of Suspect Bivins and Deputy Paez ordered him to show his hands. Deputy Paez then exited the SUV and again ordered him to take his hands out of his pockets. In the meantime, Deputy [redacted] exited the driver's side and started to walk around the back of the SUV to reach Deputy Paez and Suspect Bivins. At about the same time, Detective Dan Wolanski was turning left onto southbound 17th Street East from westbound Avenue Q-12, and saw the deputies detaining Suspect Bivins.

Before Deputy [redacted] came around the rear of the SUV, Suspect Bivins bolted from Deputy Paez and ran southbound on 17th Street East towards Avenue Q-14, with Deputy Paez in foot pursuit. Deputy Paez repeatedly yelled throughout the chase for him to stop and get on the ground, but Suspect Bivins continue to run. Upon seeing Suspect Bivins and Deputy Paez running past him, Deputy [redacted] joined the chase and advised on his radio that they were in foot pursuit. At the time of the pursuit, various parts of the pavement were covered

with slippery "black ice," and there were also large portions of the grassy/dirt areas that were frozen over and/or covered with ice and snow.

Detective Wolanski immediately drove past the deputies and the suspect and attempted to turn left onto eastbound Avenue Q-14 to block Suspect Bivins' path, but Suspect Bivins was able to cross the intersection before Detective Wolanski could execute the turn. As Suspect Bivins began running up the curb onto the grassy area to enter a long driveway between two rows of housing units, Detective Wolanski was able to turn left into the driveway and block Suspect Bivins' path before he was able to run completely across the driveway.

Suspect Bivins pushed himself off the left front fender of Detective Wolanski's patrol car with his hands, did a complete 360 degree turn to his left, and ran to the rear of the patrol car. Detective Wolanski immediately placed his car into reverse, but he had to wait before backing back up because Suspect Bivins was running behind his car towards Avenue R, closely followed by Deputy Paez and then Deputy [redacted].

After everyone cleared the rear of his patrol car, Detective Wolanski backed his vehicle about 5-10 feet when he heard a loud popping noise that sounded like a TASER being discharged. Detective Wolanski did not see any part of the shooting because he was looking to the rear while backing up.

After Suspect Bivins ran around the rear of Detective Wolanski's vehicle, he turned in a southeast direction and started to run across the grassy areas towards the side of the housing units. He then slipped and fell on the ground, using his hands to help break his fall. He immediately got back up, ran several more feet before falling down a second time and again, he used his hands to help break his fall. As Deputy Paez yelled at him to get on the ground and put his hands behind his back, Suspect Bivins used his left hand to push himself upright to face Deputy Paez and simultaneously, with his right hand, reached into his front waistband.

Deputy Paez remembered the call involved a simulated handgun and thought Suspect Bivins was reaching for an actual firearm. In fear for his safety, Deputy Paez fired one round at Suspect Bivins from his service semi-auto pistol, but the round completely missed striking Suspect Bivins and struck some nearby decorative rocks on the ground in front of a housing unit. Suspect Bivins immediately gave up and laid face down on the ground.

While Deputy [redacted] and Deputy Paez held Suspect Bivins at gunpoint, arriving assisting deputies handcuffed Suspect Bivins and took him into custody. The assisting deputies canvassed the area, but none of those residents saw the shooting incident.

Suspect Bivins alleged that after the shooting, during handcuffing, an unidentified deputy deliberately bent the fingers of his left hand back for no reason, causing him pain and his left hand to swell up. In the meantime, other deputies were kicking him, kneeing him and hitting his face and right jaw with their flashlights.

Later on in the interview, Subject Bivins said a second unidentified deputy was jumping up and down on his face with a knee and used a flashlight across his neck to hold him down. He added that the deputy did not swing his flashlight at him.

While the first unidentified deputy was re-searching him by his patrol car, he kicked the back of the Suspect Bivins' lower right thigh for no reason, causing his right knee to hit the car door. Suspect Bivins insisted that he was very cooperative after the shooting and did nothing to justify the rough handling by the deputies.

Suspect Bivins complained of a swollen left hand, especially around the index finger area. He had a very tiny and barely visible skin discoloration (about quarter of the size of a dime) approximately 2-3" above the right knee cap, which Suspect Bivins said he sustained when his knee struck the patrol car door after being kicked on the back of the thigh. He also had a very small, slight skin abrasion below his left knee cap, which he said he sustained when he fell down on the ground. Suspect Bivins also complained of swelling to his right face and jaw.

Suspect Bivins was later treated for a sprained left index finger by ER Physician Eric Snyder at Antelope Valley Hospital **(Exhibit B).** The finger was immobilized with a splint and he was okayed for booking.

Palmdale deputies searched the areas possibly used by Suspect Bivins in his getaway. They were able to locate the discarded 7-Eleven cash register drawer, bandana and jacket behind some businesses adjacent to the 7-Eleven. They did not find the gun that may have been used in the robbery. On the street pavement near where Suspect Bivins fell the second time, they found one expended cartridge in the street and an expended bullet on the decorative rocks by a housing unit **(Exhibit J - firearm report)**.

STATEMENT SUMMARIES

Suspect DeAnthony Martel Bivins Booking #1736 345
CDL [redacted] ; DOB: 10-21-89

On December 20, 2008, at about 0308 hours, Robbery Suspect DeAnthony Bivins was interviewed by IAB Sergeant Owen Tong and Sergeant Scott Hill. During the interview, Suspect Bivins drew a diagram of the scene **(Exhibit G)**. The interview was digitally recorded and summarized as follows:

> Suspect Bivins said he was walking southbound on 17th Street East from the 7-Eleven store, near Avenue Q-13 or Avenue Q-14, when a Sheriff's SUV pulled up in front of him and shined their spotlights on him. When the passenger deputy, Deputy Anthony Paez, rolled his window down, Subject Bivins asked him, *"Yes, how may I help you, sheriff?"*
>
> Suddenly, the driver deputy, Deputy [redacted], got out of the driver's seat, ran toward him with a gun in his hand and yelled at him. Suspect Bivins said the gun was not pointed at him, but he got scared and started running southbound on 17th Street East towards the church (on the northeast corner of 17th Street East and Avenue R). After Deputy [redacted] started yelling, he recalled Deputy Paez also telling him to stop.
>
> Suspect Bivins said after he ran across Avenue Q-14, he went up the east curb of 17th Street East onto the grass, he started towards a long driveway between two rows of housing units. When he reached the driveway, he slipped on the ice and "fell down" on his hands and left knee. He immediately got back up and tried to turn left (east) into the driveway, but another patrol car (driven by Detective Dan Wolanski) pulled into the driveway and cut him off. Suspect Bivins claimed the driver tried to hit him with the patrol car, "like they do on TV." The patrol car came within 6 inches of him and nearly ran over his toes, but he was able to stop and change directions. He then ran around behind the back of the patrol car to continue southbound on 17th Street East on the grass area.
>
> However, due to the icy conditions, Suspect Bivins fell a second time and again went down on his hands, but this time, his hands slid forward on the ice

and he ended up on his chest and slid about 3 feet on the ice with his hands above his head. Suspect Bivins said as soon as he fell, he heard a gunshot and someone telling him to put his hands behind his back. He denied making any motion with his hands towards his pockets after he fell the second time. Suspect Bivins said the deputies did not say anything to him prior to the gunshot, because he has "perfect hearing" and he would have stopped if they had said, *"I'm going to shoot you if you run."* He also did not see which deputy had fired the shot.

Suspect Bivins said he did not resist and instead, he complied by placing his head down on the grass and his hands behind his back, and telling the deputies, *"Yes, officer, okay, I'm alright. I'm not going to run. I'll just lay right here. You guys can cuff me up, throw me in the car."*

At this point, a group of deputies -- excluding Deputy [REDACTED] and Deputy Paez -- came up and started kicking him on the right side of the face. An unidentified deputy grabbed the fingers of his left hand and forcefully bent them back to handcuff him, before picking him up by the left thumb. As a result, Suspect Bivins said his left hand and left index finger became swollen.

> **IAB NOTE:** According to Deputy Brent Bunch's supplemental report **(Exhibit A)**, when he arrived on scene of the shooting, he saw Deputy [REDACTED], Deputy Paez and Detective Wolanski detaining Suspect Bivins at gunpoint. Suspect Bivins was prone out on his stomach with his head pointing away from the deputies. Deputy Bunch said he handcuffed Suspect Bivins, but two other unidentified deputies assisted Suspect Bivins off the ground and placed him in a radio car.

When Suspect Bivins was asked if he may have landed awkwardly during either of his falls and possibly bent his fingers back or twisted his wrist, he said he has been skateboarding for years and he knows how to fall down.

Suspect Bivins said he also got a swollen right jaw, *"From the deputies hitting me with flashlights and kneeing me in my neck and trying to break my jaw off my face,"* even though he never resisted and was already handcuffed.

Later in the interview, Suspect Bivins said a second unidentified deputy kept "jumping up and down" on his face with his knee and used his body weight to "squish" his face. The same deputy also placed a flashlight across his neck

and jaw to hold him down so he couldn't move. He now said the deputy did not swing and hit him with a flashlight.

When Suspect Bivins was asked if he may have injured his head when he fell, Suspect Bivins said, *"No,"* and, *"It doesn't hurt me nowhere down here. It only feels like somebody tried to break my fingers off my hand."*

Suspect Bivins said after he was placed in a patrol car, the unidentified handcuffing deputy took him back out of the radio when the ambulance arrived. When the handcuffing deputy searched him again, he asked him, *"Oh, so what happened to the tough guy act?"* Suspect Bivins said when he replied, *"I don't have to put on no tough guy act,"* the handcuffing deputy kicked him behind the right thigh, about 3 inches above the back of the knee, causing his right knee to hit the patrol car. When the IAB investigators asked to see his right knee, Suspect Bivins said, *"I don't have no mark on me. I just feel the pain. I don't have no mark."*

> **IAB NOTE:** At the end of the interview, Suspect Bivins showed IAB investigators his right knee and pointed to a tiny slightly discolored spot about 2-3 inches above his knee cap and said that was where his knee hit the patrol car. He then pointed to a small skin abrasion on his lower left knee and said he sustained this injury when he fell the first time and landed on his left knee and hands. IAB Investigators noted that Suspect Bivins left index finger was stiff and swollen around the main knuckle of the hand.
>
> IAB investigators did not see any visible swelling, injuries and/or marks on Suspect Bivins' face, neck, jaw and the back of the right thigh. Suspect Bivins did not appear to have any problems speaking or moving his mouth/jaw -- nor did he make any facial grimaces of pain -- when he was being interviewed by IAB. IAB investigators took photographs of Suspect Bivins (**Exhibit K**).

Involved Employee Anthony Paez [REDACTED]
Deputy Sheriff - [REDACTED]
Palmdale Station

On December 20, 2008, at about 0349 hours, Deputy Anthony Paez was interviewed by IAB Sergeant Owen Tong and Sergeant Scott Hill. Deputy Paez was a [REDACTED] at the time

(Exhibit M - WQS and TRS records). During the interview, Deputy Paez drew a diagram of the scene **(Exhibit F)**. Deputy Paez declined to have a representative present during the interview. The interview was digitally recorded and summarized as follows:

> Deputy Paez said he and Deputy [redacted] were responding to assist on a robbery **(Exhibit L)** that had just occurred at the 7-Eleven store and were northbound on 17th Street East, searching the area for the suspect described as a male black, 18-years-old, when they saw Suspect DeAnthony Bivins -- who matched the suspect's description -- walking towards them from Avenue Q-13. Suspect Bivins had a cigarette in his mouth and his hands in his pockets.
>
> When the deputies lit Suspect Bivins up with their spotlights to identify him, Deputy Paez called out of his passenger window and told Suspect Bivins to take his hands out of his pockets and put them on the hood of their SUV. Deputy Paez then exited the SUV and again instructed Suspect Bivins to place his hands on the hood. Suspect Bivins gave Deputy Paez a confused, indecisive look, took his hands out of his pockets, threw the cigarette on the ground and suddenly took off running southbound on 17th Street East, towards Avenue Q-14 **(see Exhibit C - location photos; Exhibit D - map; and Exhibit E - aerial photos)**. Deputy Paez drew his firearm and -- assisted by Deputy [redacted] -- began chasing Suspect Bivins down the street, all the while, yelling for him to stop and get on the ground.
>
> Deputy Paez did not recall if Suspect Bivins ever looked back at them, but that, *"This guy was flying."* He also did not recall if Suspect Bivins' hands were visible to him during the pursuit because it was dark.
>
> At about the same time, Detective Daniel Wolanski -- who was going southbound on 17th Street East -- drove past them to cut Suspect Bivins off at Avenue Q-14, but Suspect Bivins was able to swerve a little and cross Avenue Q-14 before Detective Wolanski could facilitate the turn onto eastbound Avenue Q-14. As the Deputy [redacted] got on the patch to request radio clearance for the foot pursuit, Detective Wolanski drove past Suspect Bivins again in a second attempt to block his path. When Suspect Bivins turned left into a driveway between two rows of housing units, Detective Wolanski beat him to the driveway and was able to use his vehicle to block Suspect Bivins from crossing the driveway. Detective Wolanski's maneuver slowed Suspect Bivins down enough for the Deputy Paez and Deputy [redacted] to gain ground on him.

Deputy Paez said Suspect Bivins ran into the side of Detective Wolanski's vehicle and bounced off, before running around the rear of the patrol car to continue southbound on 17th Street East. Suspect Bivins immediately slipped and fell forward when he began running on the ice covered grass next to the sidewalk.

Deputy Paez ordered Suspect Bivins to, *"Stay on the ground. Stay on the ground. Get your hands out where I can see them."*, but Suspect Bivins ignored the commands and got back up to run. After running several more feet, he slipped and fell forward again on the grass, in front of the air conditioning condenser next to housing Unit #C22. Deputy Paez did not see if Suspect Bivins had landed on his hands first.

Suspect Bivins again ignored Deputy Paez's commands for him to stay on the ground and show his hands. Deputy Paez explained, *"And at that time, he turned towards me, had his left hand down, turned his body towards me, looked right at me and reached for his waistband and I fired once from my weapon, sir. And then -- just fearing for my life and I was scared the whole time, because like I said, the call had came out that the guy had a simulated gun. And he had just robbed, you know, a 7-Eleven. So I mean, even when I was running, I was just, I was scared. Oh, I was scared the whole time, sir."* Deputy Paez said he thought Suspect Bivins was reaching into his waistband for a gun, and that when he fired the round, he was standing on the grass, about 10 feet northwest of Suspect Bivins.

After firing one round that struck some decorative rocks and missed hitting Suspect Bivins, Deputy Paez said Suspect Bivins held his hands up in the air and obeyed his command to lie face down on the ground.

Witness [redacted]
Deputy Sheriff - Field Training Officer
Palmdale Station

On December 20, 2008, at about 0410 hours, Deputy [redacted] was interviewed by IAB Sergeant Owen Tong and Sergeant Scott Hill. Deputy [redacted] declined to have a representative present during the interview. The interview was digitally recorded and summarized as follows:

Deputy [redacted] said he is Deputy Anthony Paez's [redacted]. They were working in the field and a robbery call came out at the 7-Eleven store on Palmdale Boulevard, at 20th Street East, and on the update, the suspect was described as a male black, 18-years-old. Deputy [redacted] could not specifically recall hearing that a firearm was used due the heavy radio traffic noise, but he thought that he may have heard that a "simulated firearm" was used, because at the time, for some reason, in his head he recalled knowing that a firearm was involved.

> **IAB NOTE:** The MDT incident log showed that the suspect was a male black, 18-years-old, with a simulated firearm.

As Deputy [redacted] and Deputy Paez drove their marked SUV (Ford Expedition) up northbound 11th Street East from Avenue R in search of the suspect, they saw Suspect Bivins walking southbound 17th Street East from westbound Avenue Q-13. Suspect Bivins had his hands in his jacket pockets and a cigarette in his mouth. Suspect Bivins was either walking on the east sidewalk of 17th Street East, or he was on the street just off the curb when they lit him up their spotlights.

As they came near Suspect Bivins, Deputy [redacted] told Deputy Paez to get out and detain him and have him show his hands. Deputy Paez had his window down and before he exited the SUV, he ordered Suspect Bivins -- who was about 15 feet away -- to show his hands. Deputy Paez quickly got out of the SUV as Deputy [redacted] placed the vehicle in park.

Deputy [redacted] said he got out of the SUV a little slower than usual because the ground was icy and slippery. As he walked around the rear of the SUV to reach Deputy Paez and Suspect Bivins, he momentarily lost visual contact of them due to the height of the SUV (Ford Expedition).

When Deputy [redacted] was asked if there was any particular reason he went behind the SUV instead of going in front of the SUV (to maintain a visual contact of Deputy Paez and Suspect Bivins), Deputy [redacted] said both spotlights were on and he didn't want the lights to blind his vision. Since his every day patrol vehicle is a Crown Victoria sedan where he can see over the top of the vehicle during vehicle stops, it was out of habit that he went around behind the SUV, forgetting that he could not see over the top of an SUV.

Deputy [REDACTED] said as soon as he got out of the SUV, he could hear Deputy Paez telling Suspect Bivins again to place his hands on the hood, but then after that, he could not hear if anything else was going on. As he was walking behind the SUV, he saw Suspect Bivins running past him on southbound 17th Street East, being chased by Deputy Paez, who was about 10 feet back. Out of the corner of his eye, Deputy [REDACTED] could see another radio car (Detective Daniel Wolanski) approaching 17th Street East from westbound Avenue Q-13. By the time, Deputy [REDACTED] joined the chase and put out the foot pursuit on his radio, he was quite a way back, partly because he was running slower than usual due to the icy pavement.

Up ahead, Deputy [REDACTED] could see Detective Wolanski attempting to cut the suspect off on Avenue Q-14, but the suspect was able to make it across Avenue Q-14. At that point, Suspect Bivins was able to increase the distance to about 35 feet between him and Deputy Paez, while Deputy [REDACTED] was about 25 feet behind Deputy Paez.

When Suspect Bivins got close to a driveway on his left that separated [REDACTED], [REDACTED], from [REDACTED] [REDACTED], of a housing complex, he cut across the sidewalk onto the grass to enter the driveway. Detective Wolanski was able turn left into the driveway and block Suspect Bivins' path.

Suspect Bivins then either ran into Detective Wolanski's vehicle or stopped before he hit the vehicle, but he was able to turn and run around the rear of the vehicle to the passenger side where he slipped and fell on the grass, possibly landing on his buttocks. Deputy [REDACTED] did not recall if Suspect Bivins also landed on his hands or not.

Deputy [REDACTED] said Suspect Bivins got back up and ran another 10 feet on the grass before he slipped and fell on his buttocks a second time. He was unsure if Suspect Bivins used his left hand to brace himself for the fall. Suspect Bivins' two falls, coupled with Detective Wolanski blocking the driveway, enabled Deputy [REDACTED] and Deputy Paez to greatly close the distance on Suspect Bivins.

Deputy [REDACTED] said after his second fall, Suspect Bivins leaned over on his left hand and started to turn his body towards them. Deputy [REDACTED] -- who had his gun out -- glanced over at Deputy Paez and noted that Deputy Paez was pointing his gun at the suspect and yelling, *"Show me your hands."* When

he glanced back over at the suspect, Suspect Bivins had rolled to his right side and it looked like he was getting up, but then Suspect Bivins reached down into the front waistband of his pants with his right hand.

At that moment, Deputy [redacted] thought, *"In my mind, I was sure he was retrieving a weapon, but when he did it, the motions he made was very deliberate, it was very intentional movement. It wasn't like he was grabbing for anything else. It was obvious to me he was going for something in his waistband, under the jacket, in the front of his pants. Almost simultaneous as it happened, once I saw that, I heard my [redacted] gun go off."*

Deputy [redacted] and Deputy Paez continued to hold Suspect Bivins at gunpoint and gave him verbal commands. Suspect Bivins complied and rolled over onto his stomach and put his hands out to be handcuffed. At about that time, several units arrived, pointed their guns at Suspect Bivins and took him into custody, but Deputy [redacted] could not recall who handcuffed Suspect Bivins.

Deputy [redacted] added that during the chase, both he and Deputy Paez yelled repeatedly for Suspect Bivins to stop and get on the ground. He could not recall if Suspect Bivins even looked back at them. Although Deputy Paez had his gun out during the chase, Deputy [redacted] kept his gun holstered until the end of the chase, because he was pre-occupied with the radio and he didn't want to slip on the ice and end up tossing his gun clear across the pavement.

Deputy [redacted] said during the chase, he had a clear visual of Suspect Bivins at all times, and because Detective Wolanski's vehicle was far enough into the driveway, it did not completely block his view of Suspect Bivins.

<u>Witness Daniel Wolanski</u> [redacted]
Station Detective
Palmdale Station

On December 20, 2008, at about 0435 hours, Detective Dan Wolanski was interviewed by IAB Sergeant Owen Tong and Sergeant Scott Hill. Detective Wolanski declined to have a representative present during the interview. At the time of the incident, Detective Wolanski was working overtime as a uniformed patrol deputy in a marked black and white unit. The interview was digitally recorded. Due to mechanical failure of the digital recorder, none of the interview was recorded.

On January 13, 2009, at about 1619 hours, Detective Dan Wolanski was re-interviewed by IAB Sergeant Owen Tong. Detective Wolanski said he recalled the contents of the Administrative Rights/Force/Shooting Review form. The telephonic interview was digitally recorded.

Detective Wolanski said he was en route to the 7-Eleven store to assist on a robbery alarm call when the call was updated to a "robbery just occurred." Detective Wolanski then began searching the neighborhood south of 7-Eleven, and as he approached 17th Street East from westbound Avenue Q-12, he saw Suspect DeAnthony Bivins being detained by deputies on 17th Street East, at Avenue Q-13. At that time, Deputy Anthony Paez had already exited their SUV, while Deputy [REDACTED] was still in the driver's seat.

As both of the deputies and Suspect Bivins approached within a few feet of each other, Suspect Bivins suddenly broke and ran southbound on the east sidewalk of 17th Street East, Deputy Paez and Deputy Bivins in foot pursuit. Detective Wolanski then drove his unit past the deputies to catch up to Suspect Bivins. Suspect Bivins then made a "short, cute move" towards eastbound Avenue Q-14, like he was going to change directions, but instead he continued southbound pass Avenue Q-14. When Detective Wolanski drove past Suspect Bivins and yelled for him to stop, Suspect Bivins just ignored him and ran up on the grass in a southeastern direction, heading for the long driveway that separated two rows of housing units.

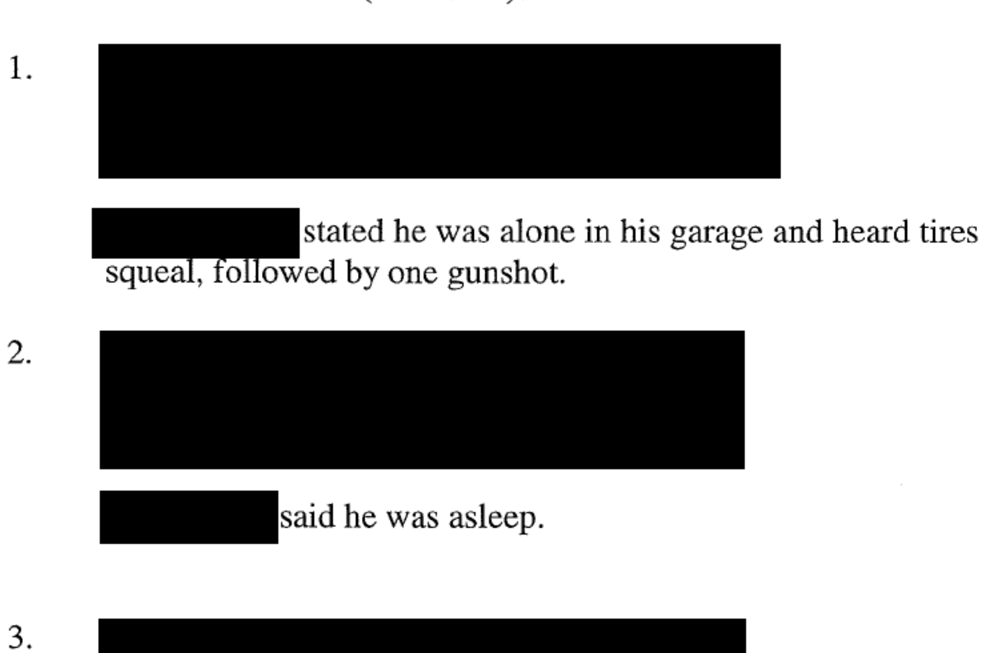
Detective Wolanski quickly drove up the long driveway after Suspect Bivins, but Suspect Bivins quickly stopped as if he was going to go back the way he came. As Detective Wolanski came to an abrupt stop in front of Suspect Bivins, Suspect Bivins used his hands to push himself off of the left front fender/hood area of the patrol vehicle, did a 360 degree spin to his left, and ran to the rear of the patrol vehicle to continue southbound on 17th Street East. Detective Wolanski said Suspect Bivins' knees and other body parts did not hit his patrol vehicle, nor did Suspect Bivins fall down after hitting the patrol vehicle.

Detective Wolanski started to back his vehicle up, but he had to stop because Deputy Paez and Deputy [REDACTED] were now behind his vehicle trying to catch up to Suspect Bivins. After he lost visual contact of the suspect and the two deputies, Detective Wolanski started backing up again when he heard a muffled sound and mistook it for a TASER being deployed.

IAB NOTE: Neither Deputy nor Deputy Paez were carrying a TASER.

Detective Wolanski ran to the rear of his vehicle and saw Suspect Bivins proned out on the grass area between a housing unit and the sidewalk, with his head pointed south, in a slightly easterly direction, and his feet pointed north, in a slight westerly direction. Both Deputy Paez and Deputy had their guns pointed at the suspect. At that point, other deputies showed up and handcuffed Suspect Bivins without using any force. Detective Wolanski recalled that Suspect Bivins was yelling a lot, but he did not appear to be fighting the deputies. Detective Wolanski did not recall what Suspect Bivins was yelling about.

IAB NOTE: On December 20, 2008, between 2337-2355 hours, Deputy Grant Roth and Deputy Bridgette Smith canvassed the area for possible witnesses. The following residents were contacted and none of them saw the incident **(Exhibit I)**:



1.

stated he was alone in his garage and heard tires squeal, followed by one gunshot.

2.

said he was asleep.

3.

said he and his mother ( ) were in the living room and he heard people running and one gunshot. No one was injured in the residence.

4. [redacted]

[redacted] said he was alone in the living room and he heard a single gunshot and saw a lot of police vehicles. He was not injured.

5. [redacted]

[redacted] was home alone and heard one gunshot.